

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STEVEN W. KRAFCHICK,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 07-284-GMS
	:	
ELIZABETH BURRIS , Acting Warden,	:	
and JOSEPH R. BIDEN, III , Attorney	:	
General of the State of Delaware,	:	
	:	
Respondents. ¹	:	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Steven W. Krafchick, has applied for federal habeas relief, filing a habeas petition challenging his 2002 conviction by guilty plea and sentence for second degree murder and possession of a deadly weapon during the commission of a felony. D.I. 16. Krafchick has raised four claims in his petition (D.I. 16) and six claims in his accompanying memorandum (D.I. 17). By the terms of the Court's order, the answer is due to be filed on October 29, 2007. D.I. 19.

2. Counsel has been, and continues to be, diligently working on numerous cases before this Court, the Third Circuit, and the state courts. However, the workload for the Appeals Division

¹ See Fed.R.Civ.P. 25(d)(1). Elizabeth Burris became Acting Warden of Delaware Correctional Center effective October 1, 2007, replacing former Warden Thomas Carroll, an original party to this case.

attorneys is currently very substantial. Counsel is currently assigned to several first degree murder cases in various stages of postconviction litigation. In fact, counsel presented oral argument to the Delaware Supreme Court today in one of those cases. Counsel is doing her best to prioritize cases by date received. In light of the situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.

5. Respondents submit that an extension of time to and including November 30, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ Elizabeth R. McFarlan
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 3759

DATE: October 24, 2007

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is in the custody of the Delaware Department of Correction and appearing *pro se*, to the subject matter of this motion.

/s/ Elizabeth R. McFarlan
Deputy Attorney General

Counsel for Respondents

Date: October 24, 2007

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ELIZABETH BURRIS , Acting Warden,	:	
and JOSEPH R. BIDEN, III , Attorney	:	
General of the State of Delaware,	:	
	:	
Respondents.	:	

ORDER

This ____ day of _____, 2007,

WHEREAS, respondents having requested an extension of time in which to file an answer,
and

WHEREAS, it appearing to the Court that the requested extension is timely made and good
cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before November
30, 2007.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2007, I electronically filed a motion for extension of time with the Clerk of Court using CM/ECF. I also hereby certify that on October 24, 2007, I have mailed by United States Postal Service, the same document to the following non-registered participant:

Steven w. Krafchick
SBI No. 178856
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ Elizabeth R. McFarlan
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